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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,282	11/14/2003	Serge Rus		9344

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Dix Hills, NY 11746

EXAMINER

NGUYEN, SON T

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 04/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicant(s)

10/712,282

Applicant(s)

RUS, SERGE

Examiner

Son T. Nguyen

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 12 and 14-17 is/are rejected.
- 7) ☒ Claim(s) 10, 11 and 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Son T. Nguyen
Prim Exam 3643

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. **Claims 1-17** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, line 3, it is unclear how the containers are being inserted into one another because from the drawings, they appeared to be adjacent to one another by connections at their flanges and not inserted into one another.

Regarding claim 3, it is unclear if the throughgoing holes claimed are the same as those claimed in claim 1, line 8, or are they different holes?

Regarding claim 7, lines 1-2, "said means for holding" lacks prior antecedent basis.

Regarding claim 12, lines 2-3, "said litter box" and "said projection" lack prior antecedent basis.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 1-6,8** are rejected under 35 U.S.C. 102(b) as being anticipated by US 5325815 (herein 815).

For claim 1, 815 discloses a device for training cats to go on the toilet, comprising a plurality of containers 20 each having a hollow for accommodating a material onto which a cat urinate or defecate, said containers being inserted into one another so as to form an upper surface on which a cat can stand or sit (see fig. 2), said containers being removable from one another so as to expose a throughgoing opening 26 through which a cat can urinate or defecate, said containers being removable independently from one another so as to gradually expose throughgoing openings of different cross-sectional areas (removing, for example, the top container will expose openings of the second container with different cross-sectional areas).

For claim 2, 815 discloses wherein at least some of said containers have an inner annular cross-section with an inner wall and an outer wall connected with one another by a bottom wall (col. 3, lines 38-40 teaches the container 20 can be circular, which circular shape has annular cross-section).

For claim 3, 815 discloses wherein said bottom walls are provided with a plurality of throughgoing holes 26.

For claim 4, 815 discloses wherein said containers are arranged so that said inner wall of one of said containers faces said outer wall of the other of said containers.

For claim 5, 815 discloses wherein at least one of said walls of each of said containers has a transverse projection 32 adapted to rest on at least one of said walls of a neighboring one of said containers.

For claim 6, 815 discloses means 21 for holding said containers together.

For claim 8, 815 discloses wherein one 21 of said walls of each of said containers is shorter than the other wall 24 of each of said containers.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 9,17** are rejected under 35 U.S.C. 103(a) as being unpatentable over 815 (as above).

For claim 9, it would have been obvious to one having ordinary skill in the art at the time the invention was made to mount the containers of 815 on a toilet seat by employing the support elements 32 for such is notoriously well known in the art to mount litter boxes or containers on toilet seat.

For claim 17, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ plastic beads for filling said containers of 815 during transportation in order to protect the containers from breakage.

7. **Claims 14-16** are rejected under 35 U.S.C. 103(a) as being unpatentable over 815 (as above) in view of US 6408790 (herein 790).

For claim 14, 790 teaches a device for training animal comprising an vessel 28 having a peripheral wall and a bottom, forming a chamber in which containers 2,18 can be accommodated so that when a cat urinates or defecates waste is accumulated in

said vessel. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a vessel as taught by 790 in the device of 815 in order to allow waste to collect in the vessel's tray 34.

For claim 15, in addition to the above, 790 further discloses the vessel has a depth which exceeds a height of said containers. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a vessel having depth which exceeds a height of said containers as taught by 790 in the device of 815 in order to allow waste to collect in the vessel's tray 34.

For claim 16, in addition to the above, 790 further discloses an insert 18 arranged in said vessel and surrounding said containers, said insert having an inner inclined surface 18 for falling wastes downwardly toward said containers. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ an insert with inclined surface as taught by 790 in the device of 815 in order to guide the waste to collect in the vessel's tray 34.

Allowable Subject Matter

8. **Claims 7 & 12** would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

9. **Claims 10,11,13** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is (703) 305-0765. The examiner can normally be reached on Monday - Friday from 9:00 a.m. to 5:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon, can be reached at (703) 308-2574. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Customer Service at (703) 872-9325. The official fax number is 703-872-9306.



Son T. Nguyen
Primary Examiner, GAU 3643
April 26, 2004